

Part E Interest Payable by the Commissioner**82 INTEREST ON EARLY PAYMENTS**

The policy in this chapter is to be followed by Tax Office staff. We have made every effort to ensure it is technically accurate, but in the interests of clarity it has been written in 'plain English' and should not be read or interpreted like legislation. If you feel that something in the chapter is wrong or misleading, please advise the Tax Office.

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82.1 PURPOSE

82.1.1 This chapter deals with the early payment of certain liabilities, where the circumstances attract interest on early payments.

82.2 LEGISLATION

82.2.1 Payment of interest on early payments is set out in under Part IIA of the *Taxation (Interest on Overpayments and Early Payments) Act 1983* (T(IOEP)A). Generally, this Part applies to assessed income tax and certain other related amounts. Interest paid under the T(IOEP)A is assessable income under section 15-35 of the *Income Tax Assessment Act 1997* when it is received (applied, credited or refunded).

82.2.2 Interest under the T(IOEP)A is payable at the annual rate or rates provided for in section 214A *Income Tax Assessment Act 1936* (ITAA 1936). Interest is calculated as simple interest, not compound interest (refer to the decision in *Consolidated Fertilizers Ltd v DCT* (1992) 23 ATR 305).

82.2.3 Interest is calculated to the nearest cent (0.5 cent increased to nearest cent) and amounts less than 50 cents are not refundable in accordance with Part IIIB of the T(IOEP)A.

82.2.4 If an amount of interest has been paid to a non-resident, 10% of the interest is to be deducted under section 12-245 of the *Taxation Administration Act 1953* (TAA).

82.2.5 Interest on early payments is payable pursuant to Part IIA of the T(IOEP)A if a payment takes place more than 14 days before the tax, debt, interest, amount or instalment concerned becomes due and payable.

82.2.6 Under paragraph 8A(1)(a) of the T(IOEP)A, interest on early payments is payable only on a payment of, or a payment on account of:

- income tax (this includes the Medicare levy and the Medicare levy surcharge);
- a higher education contribution scheme (HEC) assessment debt;
- a compulsory repayment amount arising under the *Higher Education Support Act 2003*;
- a student financial supplement (FS) assessment debt;
- penalty tax under Part VII of the ITAA 1936;

- interest under section 102AAM of the ITAA 1936;
- late lodgment penalties for relevant entities, instalment taxpayers and full self-assessment taxpayers under section 163A of the ITAA 1936;
- general interest charge for late lodgment of returns by entities other than relevant entities, instalment taxpayers or full self-assessment taxpayers under section 163B of the ITAA 1936;
- general interest charge on debit amendments under section 170AA of the ITAA 1936; and
- a shortfall interest charge under Division 280 in Schedule 1 to the TAA.

82.2.7 Debts which are not directly paid but are reduced by the crediting or applying of an amount do **not** attract early payment interest. These amounts include:

- credit for instalments payable under the pay as you go (PAYG) instalment regime;
- credit for amounts withheld from payments under the PAYG withholding regime;
- an overpayment of other income tax liabilities;
- an RBA surplus; and
- any other credit entitlement arising under a taxation law.

82.2.8 Early payment interest is not payable on:

- any component of the payment that exceeds the amount due; and
- an amount for any period during which that amount also attracts interest under Part IIIA of the T(IOEP)A.

82.2.9 Under special transitional provisions, certain full self-assessment taxpayers were able to defer their final company tax instalment for 1999-2000 income year. Early payment of a deferred instalment does not attract interest.

82.2.10 The interest on early payments is payable for the period:

- if the person is not a relevant entity, an instalment taxpayer or a full self-assessment taxpayer - from the beginning of the later of the following days:
 - (a) the day on which the payment is made;
 - (b) the day on which the notice notifying the tax, debt, interest or instalment concerned is issued; and
- if the person is a relevant entity, an instalment taxpayer or a full self-assessment taxpayer - from the beginning of the day on which the payment is made;

until the earlier of the appropriate due date for the payment or when refund occurs – section 8B T(IOEP)A.

82.3 INTRODUCTION

- 82.3.1 Entitlement to interest on early payments is set out under Part IIA of the T(IOEP)A.
- 82.3.2 The Commissioner has authority under Division 3 of Part IIB to the TAA to apply an amount of interest payable to a taxpayer against any amount due to the Commonwealth directly arising under a taxation law, including any such amount not yet payable.
- 82.3.3 Interest under the T(IOEP)A is payable at the annual rate or rates provided for in section 214A of the ITAA 1936.

82.4 POLICY

- 82.4.1 Under the T(IOEP)A interest may be payable on a payment made early. Interest can be claimed where a payment is directly made:
- for an amount listed under paragraph 8(1) of the T(IOEP)A (for example tax assessed under the ITAA 1936), and
 - more than 14 days before the due date, and
 - in relation to the 1993-1994 and subsequent income years.
- 82.4.2 Claims for interest on early payments should be made either in a written request to the Tax Office by the taxpayer/tax agent or calculated and claimed in the next income tax return. A direct payment of interest can only be made if it is greater than \$5.
- 82.4.3 Interest on early payments can only be paid after the due date for payment of the tax paid early and only after that tax amount has been established.
- 82.4.4 If the payment is for more than the value of the debt, interest can only be paid up to the value of the debt and not on the full payment.
- 82.4.5 The Tax Office will provide written details to a taxpayer of the amount early payment interest when the interest is paid. If the interest has been offset against any outstanding taxation debts, the taxpayer will also be advised in writing as to the nature and date of the offset.

82.5 TERMS USED

- 82.5.1 'Compulsory repayment amount' means amounts that are treated under Subdivision 154-D of the *Higher Education Support Act 2003* as if they were income tax.
- 82.5.2 'FS assessment debt' means amounts that are treated under subsection 12ZN(1) of the *Student and Youth Assistance Act 1973* as if they were income tax.
- 82.5.3 'Full self-assessment taxpayer' is defined under subsection 6(1) of the ITAA 1936. It includes companies (including corporate unit trusts and public trading trusts), superannuation funds, approved deposit funds and pooled superannuation trusts. The term 'full self-assessment taxpayer' applies to the 2000-2001 and later income years.
- 82.5.4 'HEC assessment debt' means amounts that are treated under subsection 106U(1) of the *Higher Education Funding Act 1988* as if they were income tax.
- 82.5.5 'Instalment taxpayer' is defined in subsection 221AZK(1) of the ITAA 1936. It includes companies (including corporate unit trusts and public

trading trusts), superannuation funds, approved deposit funds and pooled superannuation trusts. The term 'instalment taxpayer' applies to the years of income from the 1994-1995 income year (the 1995-1996 income year for entities classified as large) to the 1999-2000 income year.

- 82.5.6 'Relevant entity' is defined in section 221AK of the ITAA 1936. It includes companies (including corporate unit trusts and public trading trusts), superannuation funds, approved deposit funds and pooled superannuation trusts. The term 'relevant entity' applies to the years of income from the 1989-1990 income year to the 1994-1995 income year (the 1995-1996 income year for entities classified as large).